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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,897	06/25/2001	William L. Elderson	010214	9340
26285	7590	01/06/2004	EXAMINER	
KIRKPATRICK & LOCKHART LLP 535 SMITHFIELD STREET PITTSBURGH, PA 15222			HORTON, YVONNE MICHELE	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 09/888,897	Applicant(s) William L. Elderson
Examiner YVONNE M. HORTON	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 9/18/03

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1, 4-24, 27-37, 42, 43, and 45-49 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 1, 4-20, 22-24, 27-36, 42, 43, and 45-49 is/are allowed.

6) Claim(s) 21 and 37 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). 16

6) Other:

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DETAILED ACTION

Withdrawal of Allowable Subject Matter

1. The allowableness of claims 21 and 37 is being withdrawn in light of a more careful review of the reference to ELDERSON.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,784,850 to ELDERSON. ELDERSON discloses the use of a stud/bridging spacing system including a plurality of spaced apart studs (14) having a web (18); wherein the system comprises a means (16) for spanning the webs (18) of studs (14) and a means (50) for engaging the webs (18) of the studs (14). The means (16) for spanning the studs is V-shaped and the means (50) for engaging the studs (14) is also V-shaped in that the means (50) is widened at the mouth and is narrower closer to the opening (44).

4. Claim 37 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,784,850 to ELDERSON. ELDERSON discloses the use of a wall arrangement inherently including a first vertical surface means (the wallboard), a second wall means (14) extending perpendicularly thereto and having a web (18) and an opening (22), a means (16) for spanning

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the webs (18) of studs (14), a means (50) for engaging the webs (18) of the studs (14), and a means (48) for attaching the means (16) for spanning the studs (14).

Allowable Subject Matter

5. Claims 1,4-20, 22-24,27-36 and 42-43 remain as being allowed.
6. Claims 45-49 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter:
Regarding claims 1,4-20,22-24,27-36 and 45-49, the prior art of record fails to teach the use of a stud spacing apparatus including the combination of a plurality of studs, a bridging member, a stud engager, and a face bracket attached to the bridging member configured to receive a portion of the stud and having angled first portions and a pair of right angled second portions.

In reference to claims 42-43, the prior art of record fails to teach the method of constructing a wall including the step of attaching a bracket after inserting a bridging member. The closest prior art of record, US Patent #4,693,047 teaches the basic method except the bracket has engagers that engage the bridging member and not the stud.

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Response to Arguments

1. Applicant's arguments with respect to claims 21 and 37 have been considered but are moot in view of the new ground(s) of rejection.
2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-2909.

YMH



December 29, 2003